REMARKS

Claims 1-10 are pending in the present application. Claims 1, 2, 4 and 8-10 were rejected under 35 U.S.C. §102(b) as being anticipated by Oren et al., U.S. Patent No. 6,353,216. Claims 3 and 5-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oren et al.

Claims 1, 4, 7 and 9 have been amended. Claim 8 has been canceled. New claims 11-17 have been added. Reconsideration of the application is respectfully requested.

Amendments to the claims

Independent claims 1 and 9 have been amended to recite

> a scanning device for scanning the specimen with the first illuminating light beam in the first focal plane so as to provide a first partial image and for scanning the specimen with the second illuminating light beam in the second focal plane so as to provide a second partial image

Support for the amendments may be found, for example, at page 8, lines 10-16, of the specification. It is respectfully submitted that no new matter has been added.

Rejections based on Oren et al.

Claims 1, 2, 4 and 8-10 were rejected under 35 U.S.C. §102(b) as being anticipated by Oren et al., U.S. Patent No. 6,353,216. Claims 3 and 5-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oren et al.

Oren describes a confocal optical system having an autofocus device with a first light source used to illuminate an object and a second light source used to maintain the object in focus. See Abstract.

Independent claims 1 and 9 of the present application, as amended, recite

> a scanning device for scanning the specimen with the first illuminating light beam in the first focal plane so as to provide a first

partial image and for scanning the specimen with the second illuminating light beam in the second focal plane so as to provide a second partial image

It is respectfully submitted that Oren et al. does not teach or suggest a scanning device for scanning the specimen with two light beams so as to respectively provide first and second partial images, as recited in claims 1 and 9. In contrast, the second light beam in Oren et al. is used to maintain the target in focus. See Oren et al., col. 3, lines 13-14. Oren et al. performs the focusing function by comparing respective signals of respective wavelengths λ_1 (first light source) and λ_2 (second light source) from detectors 514 and 512. See Oren et al., col. 9, lines 18-26, and Fig. 5. A second partial image, at least, is not provided in Oren et al. Because Oren et al. is missing at least the above-recited features of independent claims 1 and 9, it is respectfully submitted that Oren et al. cannot anticipate claims 1 and 9 or their respective dependent claims 2, 4, 8 and 10, nor can Oren et al. render dependent claims 3 and 5-7 unpatentable.

With specific regard to dependent claims 2 and 10, it is respectfully submitted that these claims are not anticipated by Oren et al. for the additional reason that Oren et al. does not teach or suggest a device for superimposing of partial images. In contrast, in Oren et al. measurements of wavelengths λ_1 and λ_2 from detectors 500 and 502 are used to normalize the light beams reflected from the target. See Oren et al., col. 9, lines 1-25, and Fig. 5. No partial images are superimposed.

For at least the above reasons, withdrawal of the rejection of independent claims 1 and 9, as well as respective dependent claims 2, 4, 8 and 10, under 35 U.S.C. §102(b), and the rejection of claims 3 and 5-7 under 35 U.S.C. §103(a), based on Oren et al., is respectfully requested.

New claims

New claim 11 has been added depending from claim 10. New claim 11 mirrors claim 2, which depends from claim 1. New claims 12-16 and 17 have been added depending from claims 9 and 1, respectively. New claims 12-15 mirror claims 3-7, which depend from claim 1. New claims 16 and 17 recite that the displacement device is configured to perform the relative displacement in a time between the scanning of the specimen with the first

illuminating light beam and the scanning of the specimen with the second illuminating light beam. Support for the amendment may be found, for example, at page 8, lines 17-21, of the specification. It is respectfully submitted that new claims 16 and 17 are allowable for the same reasons that independent claims 1 and 9 are allowable, and for the additional reason that the Oren et al. reference does not teach performing a relative displacement in a time between the scanning with the respective light beams, as recited in. In contrast, Oren et al. "continuously measures" signal D_4 of the light of wavelength λ_2 measured at detector 512 and "continuously adjusts the focusing distance" See Oren et al., col. 9, lines 49-61. Because the light of wavelength λ_2 is continuously present, there cannot be "a time between the scanning" as recited in claims 16 and 17.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

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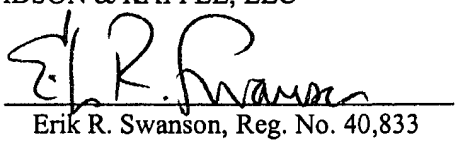
By: 

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